

EXHIBIT 5

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December 20, 2019

VIA ELECTRONIC MAIL

Monica McCarroll
Redgrave LLP
14555 Avion Parkway, Suite 275
Chantilly, VA 20151

Michael E. Lacy
Troutman Sanders LLP
1001 Haxall Point, 15th Floor
Richmond, VA 23219

Re: CSX Transportation, Inc. v. Norfolk Southern Railway Co., No. 2:18-cv-530

Dear Monica and Michael:

I write on behalf of CSX Transportation, Inc. ("CSXT") to follow up on the meet-and-confer call we held on December 13, 2019, during which we discussed the search terms CSXT and Norfolk Southern Railway Company ("NSR") proposed applying to identify potentially relevant electronically stored information, pursuant Paragraphs 3(g) and 3(h) of the Stipulated ESI Order (Dkt. No. 83).

With respect to NSR's proposed search terms, CSXT first has concerns that NSR's use of limiting phrases such as "NOT Chicago" in conjunction with all of its Beltline-related search terms will inappropriately exclude potentially relevant documents from NSR's review universe. We appreciate you testing Beltline-related search terms (including "Beltline," "Belt w/5 line," "NPBL," and "NPB") without limiting phrases to assess the total volume of hits. As I mentioned during our call, given the potential for a single document to reference responsive material involving the NPBL and also nonresponsive material involving other geographic locations, CSXT believes it may be necessary for NSR to review the hits on Beltline-related search terms to determine responsiveness rather than using more limited search terms to exclude documents from the review universe in the first place.

CSXT also has concerns that NSR's proposed search terms do not include any terms targeting communications with customers or other commercial information requested by CSXT. On our call, you indicated that you had not included any such search terms because NSR had objected to producing documents in response to these requests. You also noted that, for any requests not objected to, other sources of ESI, including non-custodial data, may contain

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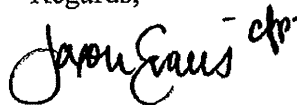
responsive information. CSXT agrees that the parties will likely exchange non-custodial data related to their requests for commercial and sales information; however, CSXT also views NSR's communications and negotiations with customers, as well as NSR's internal discussions of pricing and market strategy, as highly relevant to the claims and defenses in this action.

Additionally, we discussed that both NSR and CSXT have proposed search strings in connection with some of their respective searches that include port-related terms. We understand that NSR may propose additional terms for CSXT's search strings, and we noted that we would expect those search strings (including any additional terms proposed by NSR) to be the same for both parties.

Finally, we noted that we may request certain additional discrete terms be added to NSR's searches in accordance with the ESI Order. We are continuing to evaluate those potential terms and will follow up by separate correspondence.

Please let me know your availability for a meet-and-confer call in the next two weeks to discuss NSR's objections to CSXT's document requests. The specific responses and objections that we would like to address in our meet-and-confer include, without limitation, NSR's responses and objections to Requests for Production No. 24, 26, 27, 28, 29, 30, 31, 33, 34, and 37 in CSXT's First Set of Requests for Production of Documents. Assuming those objections can be resolved amicably, the parties can further discuss appropriate search terms to target the requested documents and information at that time.

Regards,

A handwritten signature in black ink that reads "Jason Evans" with a stylized flourish at the end.

Jason Evans

cc (by email only): Alan Wingfield, Troutman Sanders
Liz Flowers, Troutman Sanders
Ben Hatch, McGuireWoods
Rob McFarland, McGuireWoods
J. Brent Justus, McGuireWoods
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